IN THE HIGH COURT OF JUDICATURE OF BOMBAY

IN ITS INSOLVENCY JURISDICTION

NOTICE OF MOTION NO. 79 OF 2006

IN

PETITION NO.25 OF 2002

Re: Tushar Shantilal Lunkad .. Insolvent

Ex-parte:

Anagram Stock Broking Ltd. .. Petitioning Creditor.

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Mr.Jayant Gaikwad i/b Ajay Khandhar & Co. for insolvent.

Mr.Tushar Goradia for petitioning creditor.

Mr.Y.C. Parikh, Official Assignee present.

CORAM : D.G. KARNIK, J

DATED : 20th June 2006.

P.C.:

1. This motion is taken out by the insolvent for the purpose of annulment of the order declaring him to be insolvent. I have perused the schedule of assets and liabilities filed by the insolvent. In the schedule, the liabilities are shown to the extent of Rs.16.32 crores. As against this, the assets are shown

by insolvent to be Rs.33.67 lacs only. Learned counsel for the insolvent says that the liability of the bank to the extent of Rs.16 crores has already been satisfied and therefore, the liability now remaining is only Rs.32.71 lacs as against the assets of the insolvent are 33.67 lacs.

2. The petitioner has shown assets of Rs.30.83 lacs in the shape of Life Insurance policies. Two letters from the Life Insurance Corporation were obtained regarding the present surrender value of the policies and the present surrender value of the two policies is Rs.1,71,791/- and Rs.59,056/-. Thus though the face value of the policies may be Rs.34 lacs their surrender value is about Rs.2,30,000/- only. That would be the present value of the assets in the shape of the life insurance policies. The full value of the policies would be payable only if the insurance policies are continued till maturity and all future premiums are paid. Face value cannot be taken as the present asset of the insolvent. Thus, the total present assets of the insolvent would be in the region of about Rs.5,50,000/- as against his liabilities of Rs.32.71 lacs. For these reasons, there is no merit in the contention of the insolvent to annal the order adjudicating the insolvent as such. Hence, motion is

dismissed.

(D.G. KARNIK, J)